

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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| DETRICK DEROVEN, #837354 | § | |
| VS. | § | CIVIL ACTION NO. 6:15cv255 |
| DIRECTOR, TDCJ-CID | § | |

ORDER OF DISMISSAL

Petitioner Detrick Deroven, an inmate previously confined at the Powledge Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus challenging a prison disciplinary case. The petition was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be denied. Petitioner has filed objections.

“Federal habeas relief cannot be had absent the allegation by a plaintiff that he or she has been deprived of some right secured to him or her by the United States Constitution or the laws of the United States.” *Malchi v. Thaler*, 211 F.3d 953, 957 (5th Cir. 2000) (citation and internal quotation marks omitted). The punishment Petitioner received in the disciplinary case did not implicate a protected liberty interest; thus, his disciplinary case did not involve a right secured by the United States Constitution or the laws of the United States. A protected liberty interest is at stake if and only if a petitioner loses good time and is eligible for release on mandatory supervision. *See Madison v. Parker*, 104 F.3d 765, 769 (5th Cir. 1997). Petitioner did not lose any good time, and he is ineligible for release on mandatory supervision. Federal habeas corpus relief is unavailable with respect to the disciplinary case due to the absence of a protected liberty interest.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the

opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.


The Court notes that Petitioner's objections include allegations of denial of access to court and deprivation of property without due process. His petition also includes allegations of retaliation. Petitioner may have a basis for a civil rights lawsuit involving these matters, and he may still file one. *See Carson v. Johnson*, 112 F.3d 818, 820 (5th Cir. 1997) (Civil rights lawsuits are proper vehicles to attack unconstitutional conditions of confinement, while a habeas petition is the proper vehicle to seek release from custody.). Petitioner has not shown, however, that he has a basis for federal habeas corpus relief. It is accordingly

ORDERED that the Report and Recommendation (docket entry #10) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 11th day of May, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE